SCS Agency

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board									
Author:	Brulte & Lockyer	Analyst:	Jeani Brent	Bill Number:	SB 1397				

Related Bills: See Legislative History Telephone: 845-3410 Introduced Date: 01/12/98

Attorney: Doug Bramhall Sponsor:

SUBJECT: Exclusion/Amounts Received by Survivor of the Holocaust or Heirs From

Swiss Bank Accounts

SUMMARY

Under the Personal Income Tax Law, this bill would exclude from an individual's gross income any amounts received by a survivor of the Holocaust, or his or her heirs, from a dormant account held by any Swiss bank at the close of World War II.

EFFECTIVE DATE

This bill would apply to taxable years beginning on or after January 1, 1998.

LEGISLATIVE HISTORY

AB 1624 (Stats. 1996, Ch. 28), SB 714 (Stats. 1996, Ch. 29).

PROGRAM HISTORY/BACKGROUND

In 1997, the Swiss Bankers Association published three lists of accounts that had been dormant since World War II. Two of these lists contained the account names of non-Swiss individuals. The publication of these lists and the creation of a special claims resolution process are efforts to simplify the process of searching for unclaimed assets that may be held in Swiss banks in dormant bank accounts opened by foreign citizens prior to the end of World War II. The Swiss Banking Ombudsman has established a central contact office to assist Holocaust survivors and heirs of Holocaust victims in matching their claims for assets that may be held in Swiss banks.

According to a list of answers for frequently asked questions about the dormant accounts published by the Swiss Bankers Association, the "List of Non-Swiss Accounts includes all known dormant Swiss bank accounts that were opened before May 9, 1945, by non-Swiss individuals." Further, "It is likely that the List of Non-Swiss Accounts includes both victims of the Holocaust and individuals who were not victims of the Holocaust, but who have forgotten about the existence of

DEPARTMENTS THAT MAY BE AFFECTED:									
STATE MANDA	RNOR'S APPOINTMENT								
Department Director Position: S O SA OUA N NP NA NAR X PENDING	Agency Secretary Position: S O SA OUA N NP NA NAR DEFER TO	Position Approved Position Disapproved Position Noted							
Department Director	Agency Secretary Date	By: Date:							
Gerald H. Goldberg 2/10/98									

Senate Bill 1397 (Brulte and Lockyer) Introduced January 12, 1998 Page 2

their Swiss accounts." The Swiss Bankers Association states that "[u]nlike in many countries, including the United States, where inactive accounts are turned over to the government after a period of time, in Switzerland, dormant accounts remain the property of the client and must continue to be held by the banks." The deadline for filing a claim under the special claims resolution process is March 31, 1998.

SPECIFIC FINDINGS

Existing federal and state laws provide that gross income includes all income from whatever source derived, including compensation, business income, gains from property, dividends, rents, interest, and royalties, unless it is specifically exempt.

Existing federal and state laws provide that certain types of income specifically are excluded from gross income, such as amounts received from certain death benefits, gifts and inheritances, compensation for injuries and sickness, qualified scholarships, educational assistance programs, and foster care payments.

An existing federal Treaty provides that awards received pursuant to the German Act Regulating Unresolved Property Claims are exempt from U.S. taxation.

Existing state law excludes from an individual's gross income any amounts received, including interest and the value of property, pursuant to the German Act Regulating Unresolved Property Claims. The basis of any property received as compensation is the fair market value determined at the time of receipt by the taxpayer.

Neither existing federal nor state laws currently exclude from gross income amounts received from a dormant account held by any Swiss bank. The department is not aware of any congressional proposal to exclude these amounts from federal gross income.

This bill would exclude from gross income amounts received by a survivor of the Holocaust, or his or her heirs, from a dormant account held by any Swiss bank at the close of World War II.

Implementation Considerations

Implementation of this bill would not impact the department's programs and operations.

Technical Considerations

This bill raises the following technical considerations:

1. This bill provides that the exclusion would apply to amounts received by a survivor, or his or her heirs, thus limiting the exclusion to heirs of a survivor and not of a victim of the Holocaust.

Senate Bill 1397 (Brulte and Lockyer) Introduced January 12, 1998 Page 3

2. For clarification, the term "heir" should be defined. The California Probate Code provides definitions for heir (Section 44) and beneficiary (Section 24), which includes heirs (intestate) and devisees (testate). Either (or both) of these definitions could be incorporated by reference to the appropriate Probate Code Section.

FISCAL IMPACT

Departmental Costs

The provisions of this bill would not impact the department's costs.

Tax Revenue Estimate

Neither the number of qualified claims that may result nor the amount of settlements that could be received by California residents is known at this time. As a rule of thumb, for every \$1 million of claims received by California residents during the tax year, the revenue losses would be on the order of \$80,000.

BOARD POSITION

Pending.